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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/996,739	11/30/2001	Claude A. Marbler	ATM-2301	4484

7590 08/28/2003
Fisher Christen & Sabol
Suite 1108
1725 K Street, N.W.
Washington, DC 20006

EXAMINER

RHEE, JANE J

ART UNIT	PAPER NUMBER
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1772

DATE MAILED: 08/28/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/996,739

Applicant(s)

MARBLER ET AL.

Examiner

Jane J Rhee

Art Unit

1772

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 18 August 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 12-29,31,33-35,37-42.

Claim(s) withdrawn from consideration: _____.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☒ Other: see attachment

ADVISORY ACTION

The proposed amendment will not be entered because they raise new issue that will require further consideration and search. The new issue is in claim 28,34,38-42, "rim around outer opening of each perforation is flat and in plane of outer surface of the packaging film."

Response to Arguments

Applicant's arguments filed 8/18/03 have been fully considered but they are not persuasive.

In response to applicant's argument that applicant's amendment in the response to the first office action did not necessitate the new grounds of rejection, applicant added claim 30 to the independent claims 12 and 42 and in addition to the limitation applicant further adds "said packaging being easy to open by means of the tear line", which is quite different than the original written claim, "a process comprising manufacturing a multilayer packaging film for an easy open form of a packaging...", the latter limitation is an intended use limitation wherein the amendment in the current claim changes the scope of the claim by further limiting applicant's present invention therefore, a new rejection was produced.

In response to applicant's argument that Olivieri et al. does not disclose joining a precut film to other layers to make a composite film, Olivieri et al. discloses on page 14 on lines 18-19, that the edges of 430 and 410 that consist of the precut lines 433 and 432 in figure 8a are welded together therefore, the precut film is a layer that is joined with another precut film layer therefore, Olivieri et al. does disclose that a precut film is

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joined with other layers to make a composite. Olivieri et al. also discloses in figure 7 that numbers 12,12a,12b is joined to other layers 11 and 13, therefore, the precut film of 12 is joined to other layers 11 and 13 to make a composite film.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jane J Rhee whose telephone number is 703-605-4959. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 703-308-4251. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

Jane Rhee
August 26, 2003


HAROLD PYON
SUPERVISORY PATENT EXAMINER

1/12

8/26/03